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Attorneys for Defendants Power
Ventures, Inc. and Steve Vachani

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC.,

Plaintiff,

-against-

POWER VENTURES, INC. d/b/a POWER.COM, a
California corporation; POWER VENTURES, INC.
a Cayman Island Corporation, STEVE VACHANI,
an individual; DOE 1, d/b/a POWER.COM, an
individual and/or business entity of unknown nature;
DOES 2 through 25, inclusive, individuals and/or
business entities of unknown nature,

Defendants.

Case No. 5:08-CV-05780 JW (JCS)

**DECLARATION OF L. TIMOTHY
FISHER IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
FACEBOOK INC.'S MOTION FOR
ADMINISTRATIVE RELIEF
PURSUANT TO CIVIL LOCAL
RULE 7-11 FOR LEAVE TO FILE
SUPPLEMENTAL MATERIALS IN
SUPPORT OF MOTIONS FOR
PARTIAL SUMMARY JUDGMENT
AND OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

1 I, L. Timothy Fisher, declare as follows:

2 1. I am a partner at Bursor & Fisher, P.A., counsel of record for Defendants Power
3 Ventures, Inc. ("Power") and Steve Vachani (collectively, "Defendants"). I am an attorney at law
4 licensed to practice in the State of California, and I am a member of the bar of this Court. I make
5 this declaration in support of Defendants' opposition to Facebook Inc.'s Motion for Administrative
6 Relief Pursuant to Civil Local Rule 7-11 for Leave to File Supplemental Materials in Support of
7 Motions for Partial Summary Judgment and Opposition to Defendants' Motion for Summary
8 Judgment. I have personal knowledge of the facts set forth in this declaration and, if called as a
9 witness, I could and would testify competently thereto.

10 2. Attached hereto as Exhibit A is a true and correct copy of a letter to Facebook's
11 counsel dated October 24, 2011 regarding the 109 gigabyte production of Power's database and
12 repositories.

13 3. Attached hereto as Exhibit B is a true and correct copy of an email exchange
14 between me and Facebook's counsel regarding the date of Steve Vachani's deposition.

15 4. Before Facebook filed its summary judgment motions on November 14 and
16 November 17, Power produced all of the documents in its possession including its source code,
17 databases, SVN and internal memoranda. Defendants also gave Facebook direct access to Mr.
18 Vachani's email account, which included approximately 300,000 emails.

19 I declare under the penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct, executed on January 24, 2012 at Walnut Creek, California.

21
22 

23
24 L. Timothy Fisher

EXHIBIT A

BURSOR & FISHER
P.A.

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10TH FLOOR
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www.bursor.com

NEAL J. DECKANT
LAW CLERK
Tel: 646.837.7165
Fax: 212.989.9163
ndeckant@bursor.com

October 24, 2011

By Overnight Delivery

Orrick, Herrington & Sutcliffe LLP
Attn: Monte Cooper
1000 Marsh Road
Menlo Park, CA 94025-1015

**Re: *Facebook, Inc v. Power Ventures, Inc.*,
Civil Action No. 5:08-cv-05780**

Dear Mr. Cooper:

Enclosed are the full versions of the eight files referenced in your October 19th email. The production is roughly 109 GB and contains the following files:

- (1) Async_bkp_full.bak (11.9 GB)
- (2) power_bkp_full.bak (58.7 GB)
- (3) power_flag_bkp_full.bak (2.98 GB)
- (4) power_massmail_manager_bkp_full.bak (2.32 GB)
- (5) PowerAccount_bkp_full.bak (7.01 GB)
- (6) powerscrap_bkp_full.bak (2.97 GB)
- (7) SVN.rar (8.51 GB)
- (8) svn_bkp_full.tar (15.1 GB)

As you noted in your email, the file svn_bkp_full.tar is password protected. Mr. Vachani said he will ask former Power employees for the password. However, SVN.rar is not password protected. I was able to successfully extract and view the files.

Very truly yours,



Neal J. Deckant
Law Clerk
Tel: 646.837.7165
Fax: 212.989.9163
ndeckant@bursor.com



Debbie Schroeder <dschroeder@bursor.com>

Fwd: Facebook v. Power--Assignment of Magistrate Judge and the second day deposition of Vachani

1 message

L. Timothy Fisher <ltfisher@bursor.com>

Tue, Jan 24, 2012 at 5:30 PM

To: Debbie Schroeder <dschroeder@bursor.com>

----- Forwarded message -----

From: **Cooper, Monte** <mcooper@orrick.com>

Date: Wed, Oct 26, 2011 at 4:39 PM

Subject: RE: Facebook v. Power--Assignment of Magistrate Judge and the second day deposition of Vachani

To: "L. Timothy Fisher" <ltfisher@bursor.com>, Neal Deckant <ndeckant@bursor.com>, "Scott A. Bursor" <scott@bursor.com>

Cc: "Sutton, Theresa A." <tsutton@orrick.com>, "Dalton, Amy" <adalton@orrick.com>, "Chatterjee, I. Neel" <nchatterjee@orrick.com>, "Beardsley, Megan M." <mbeardsley@orrick.com>, "Mudurian, Karen N." <kmudurian@orrick.com>, "Ortiz, Marilyn" <mortiz@orrick.com>, "Metanat, Morvarid" <mmetanat@orrick.com>

Tim:

I have now already confirmed that neither November 15 nor November 18 will work for our taking the second deposition of Mr. Vachani. Also, upon further reflection, I believe Mr. Vachani's second deposition should only be scheduled once we receive Magistrate Judge Spero's ruling on the two motions to compel that are set for hearing next Friday. In the event that Power and Mr. Vachani are ordered to search for and produce additional documents, as the Magistrate Judge preliminarily suggested on the call yesterday he was inclined to order, then Facebook would prefer to wait until after that production to take Mr. Vachani's deposition. That also was the point of Facebook's position concerning the need for the second deposition set forth in the proposed Joint letter we sent yesterday, and in our earlier communications on this issue. At this point, therefore, you need not worry about seeing if Mr. Vachani is available on November 14.

I am more than happy to discuss this further, if you prefer.

Monte

From: Cooper, Monte
Sent: Wednesday, October 26, 2011 4:20 PM
To: 'L. Timothy Fisher'; Metanat, Morvarid
Cc: Scott A. Bursor; Sutton, Theresa A.; Dalton, Amy; Neal Deckant
Subject: RE: Facebook v. Power--Assignment of Magistrate Judge and the second day deposition of Vachani

Tim:

I will check with my colleagues about their availability November 15, but as of right now November 19 is not feasible for a second deposition. I am getting married on November 19 in Boston, and two other members of the team will be in Boston for that event. Also, the week after that date is unlikely to be convenient for anyone, as it includes the Thanksgiving holiday.

If you could kindly check if Mr. Vachani could, as an alternative to November 15, be made available for a deposition on November 14 or on at least one other date outside the range of November 15-27, we would be appreciative. Of course, if November 15 works for others, this request will be moot and I will let you know immediately.

Monte

From: L. Timothy Fisher [mailto:ltfisher@bursor.com]
Sent: Wednesday, October 26, 2011 3:01 PM
To: Metanat, Morvarid
Cc: Scott A. Bursor; Cooper, Monte; Sutton, Theresa A.; Dalton, Amy; Neal Deckant
Subject: Re: Facebook v. Power--Assignment of Magistrate Judge and the second day deposition of Vachani

Dear Morvarid:

Defendants will agree to produce Mr. Vachani for another deposition at your office in San Francisco on November 15 or November 18. Please let us know if either of those dates is acceptable to you.

Tim

L. Timothy Fisher

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